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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,864	11/20/2003	Casey L. Kelly	3250.002	3077

26375 7590 10/07/2005

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EXAMINER

SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,864

Applicant(s)

KELLY, CASEY L.

Examiner

Robert P. Swiatek

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Stovall (US 5,681,350). The Stovall patent discloses a method for replacing the hoof of a horse. As such, the method includes the steps of debriding those portions of a horse's hoof wall 17 that have been affected by a disease, cleaning the underlying dermal laminae 16, coating solid particulate material with a polymeric resin into a resultant mass of viscous material, applying the viscous material to the void left by the removed hoof material and sculpting the resin mixture with a trowel into the shape of a hoof wall while it is still malleable, allowing the resin mixture to cure, and sanding or rasping the hardened mass 20 into a final intended shape (see column 3, lines 31-57, of Stovall). Inasmuch as horseshoes come in various shapes and the prosthesis 20 of Stovall replaces a portion of what was originally the bottom wall of the natural hoof (note Figures 2, 3 of Stovall), the prosthesis is considered to possess a horseshoe shape. The debridement step of Stovall is deemed to constitute cleaning inasmuch as debris and any fragments or artifacts relating to a previous shoe would be removed (note Figure 1 of Stovall).

Claims 2, 3, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

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regards as the invention. In claim 2, line 8, "said horseshoe mass" lacks a prior antecedent basis, in lines 9, 10, "said *final* intended horseshoe shape [italics added]" lacks a prior antecedent basis; in claim 3, lines 6, 7, the phrase "said shoe area surface adhering relation" is unclear, in lines 10, 11, "said final intended shoe shape" lacks a prior antecedent basis; in claim 14, lines 2, 3, the phrase "on the hoof from horseshoe" is unclear.

Claims 1, 3, 14 are objected to because of the following informalities: In claim 1, line 3 the article –a– should be inserted before "horse"; claim 3 must end with a period; in claim 14, line 2, the second occurrence of "a" should be changed to –an–. Appropriate correction is required.

The patents to Monticello (US 4,982,797) and Knudsen (5,199,498) have been cited to provide additional examples of hoof repair methods.

RPS: 0571/272-6894
3 October 2005

Robert P. Swiatek
ROBERT P. SWIATEK
PRIMARY EXAMINER
ART UNIT ~~22~~ 3643